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Letter dated 6 March 2012 from the Secretary-General addressed to the President of the Security Council

I have the honour to convey to you a letter dated 14 February 2012 from the Chairperson of the African Union Commission, Mr. Jean Ping (see annex), forwarding a memorandum of understanding on non-aggression and cooperation, which was signed by the Governments of South Sudan and the Sudan under the auspices of the African Union High-level Implementation Panel during the latest round of talks on 10 February 2012 (see enclosure).

I should be most grateful if you would bring the present letter and its attachments to the attention of the members of the Security Council.

(*Signed*) **BAN** Ki-moon

12-25383 (E) 090312

Please recycle

Annex

Letter dated 14 February 2012 from the Chairperson of the African Union Commission addressed to the Secretary-General

I am writing to formally inform you that, following the second meeting of the Joint Political and Security Mechanism, held in Addis Ababa on 10 February 2012, under the facilitation of the African Union High-level Implementation Panel, the Government of the Republic of the Sudan and the Government of Republic of South Sudan have signed a memorandum of understanding on non-aggression and cooperation.

As you are aware, the Joint Political and Security Mechanism was established in 2011 as the first intergovernmental mechanism between the Sudan and the newly independent Republic of South Sudan. Meeting at the ministerial level, it addresses security concerns between the two countries in order to foster confidence and reduce the likelihood of security issues escalating into conflict.

The memorandum of understanding on non-aggression and cooperation includes a commitment by the two States to respect each other's sovereignty and territorial integrity, a commitment to non-interference in the internal affairs of the other and the rejection of the use of force, as well as a commitment to equality and mutual benefit, and peaceful coexistence.

In addition to the memorandum of understanding, the two States also adopted a number of other decisions on steps to reduce tension along their common border. In particular, they agreed to the immediate activation of the Joint Border Verification and Monitoring Mission, which would have the task of monitoring the Secure Demilitarized Border Zone between the two countries and investigate any allegations of violation by the two States. They also agreed to the establishment of mechanisms and procedures to investigate allegations and counter-allegations against either State in areas beyond the border. The next meeting of the Joint Political and Security Mechanism will be held in Juba on 8 March 2012.

In the context of the heightened tension between the two countries, the speedy and full implementation of the memorandum of understanding will significantly contribute to the promotion of peace and the reduction of the likelihood of conflict.

I am attaching, herewith, the memorandum of understanding on non-aggression and cooperation, as well as the record of decisions of the meeting of the Joint Political and Security Mechanism. I would be most grateful if you could circulate this letter and the attached documents as a Security Council document, for the information of the members of this organ.

The African Union High-level Implementation Panel is pursuing its efforts to assist both parties, in the context of the negotiations that started in Addis Ababa on 12 February 2012, to reach an agreement on all outstanding issues. The informal interactive dialogue with the Security Council scheduled for 27 February 2012 will provide an opportunity for the Panel to provide an update on the negotiation process and other aspects of its work.

As we intensify our efforts to resolve the outstanding issues in the relations between the two countries, it is critical that the international community, including the Security Council, continue to fully support the efforts of the African Union

High-level Implementation Panel. Allow me, in this respect, to reiterate our appreciation for the invaluable contribution of your Special Envoy, Haile Menkerios, and his team and their excellent cooperation with the Panel.

(*Signed*) Jean **Ping**

Enclosure*

Memorandum of Understanding on Non-aggression and Cooperation ("this Memorandum")

between

The Government of the Republic of the Sudan

and

The Government of the Republic of South Sudan

(hereinafter "the Parties" or "the two States")

The Parties:

Recognizing the need to construct, promote and sustain a manually supportive relationship between the Republic of the Sudan and the Republic of South Sudan,

Recalling the agreed principle of promoting the mutual viability of the two States, and affirming the commitment of the two States to maintain a secure Sudan and South Sudan,

Further affirming their commitment to implementing the African Union Constitutive Act, and the United Nations Charter, and relevant principles of International Law, including the Vienna Convention on the Succession of States in Respect of Treaties of 1978, and International Humanitarian Law, generally

Welcoming and respecting the admission and recognition of the Republic of South Sudan as the 193rd member of the United Nations pursuant to General Assembly Resolution A/RES/65/308 of 14th July 2011

Committed to Implementing the Khartoum Consolidation Document of 19th September 2011.

Agree as follows:

Part I

Non-Aggression

Article 1
Definition of Aggression

For purposes of this Memorandum, "aggression" means: "the use of armed force or the conduct of any other hostile act by a State or other entity against the sovereignty, territorial integrity or political independence of another State"

* The Memorandum of Understanding received by the Secretariat was initialled on each page.

Article 2
Principles of good neighbourliness and non-aggression

The two States agree to abide by the following principles of good neighbourliness and non-aggression:

1) Respect for each other's sovereignty and territorial integrity

2) Non-interference in the internal affairs of the other State

3) Rejection of the use of force in conducting their relations in accordance with the principles enshrined in the African Union and United Nations charters

4) Equality and mutual benefit

5) Peaceful co-existence

Part II

Elaboration of the Principles

Article 3
Respect for each other's sovereignty and territorial integrity

1) Neither State shall violate the territorial integrity of the other State

2) Each State shall respect the sovereignty of the other State in all respects, including its political independence

Article 4
Non-interference in the internal affairs of the other State

1) Each State shall refrain from interfering in the internal governance of the other State including in legislative, executive functions

2) Neither State shall support political parties, other political actors, or opposition armed groups and movements, within the other State

3) Each State shall refrain from carrying out military acts and espionage activities against the other State

4) Neither State shall enter into an alliance with, or provide support to, a third party for purposes of undermining the integrity and interests of the other State

Article 5
Rejection of the use of force in conducting their relations

1) The two States shall conduct their relations on the basis of mutual non-aggression and shall resolve any disputes that might arise between them exclusively through peaceful means

2) Each State shall refrain from launching any attack including bombardment against the territory of other State, neither shall the State invade, occupy or annex, however temporarily, the territory of the other State

3) Neither State shall conduct overflight of the airspace of the other State without the prior formal agreement of that State

4) Neither State shall allow its territory to be used by another State, or by any armed group or movement to conduct any acts of aggression or to undertake military acts or other subversive activities against the territory of the other State

5) Neither State shall harbour or provide any form of support to armed groups, mercenaries, terrorist organizations, or other organized transnational criminal groups which may carry out hostile acts against the other State

6) Neither State shall provide technological assistance, intelligence or training of any kind to another State or other entity which may be used in committing acts of aggression against the other State

7) The two States undertake to cooperate with each other to combat trans-boundary crimes and criminal acts

Article 6
Equality and Mutual Benefit

1) The two States shall conduct their relations, and cooperate on the basis of equality and the promotion of their mutual benefit

2) Accordingly, each State shall refrain from blockading agreed corridors of movement, ports, coastlines, rivers, or airspace of the other State in accordance with the principles of International Law

Article 7
Peaceful Co-existence

1) Each State shall maintain diplomatic relations with the other State, including establishment of diplomatic missions

2) To ensure peace, stability and security, the two States shall maintain such joint mechanisms for fostering political and security cooperation between them as they may agree, including the Joint Political and Security Mechanism (JPSM)

Article 8
Observation of Implementation

1) The two States hereby authorize the JPSM to oversee their compliance with this Memorandum. The Parties may adopt further mechanisms and principles to enable the JPSM to carry out this function

2) In the event of any dispute arising in the implementation of this Memorandum, the two States shall seek to resolve the matter amicably through the JPSM

Article 9
Amendment and Termination

1) This Memorandum may be amended by the mutual consent of the Parties

2) If either State wishes to terminate this Memorandum it shall give the other State notice of its intention to do so. After the expiry of sixty days from date of such notification, the Memorandum shall be deemed to be terminated

Done in Addis Ababa, this 10th Day of February, 2012:

(*Signed*) 1st Lt. Gen. Mohamed Atta Elmula **Abass**
Director General for National Intelligence and Security Services
On behalf of the Republic of the Sudan

(*Signed*) Maj. Gen. Thomas Duoth **Guet**
Director General for General Intelligence Bureau
On behalf of the Republic of South Sudan

In the presence of:

(*Signed*) Thabo Mvuyelwa **Mbeki**
Chairperson, African Union High Level Implementation Panel
Facilitator of the Negotiations

Record of Decisions
Meeting of Joint Political Security Mechanism
Addis Ababa, 10 February 2012

Agenda Item 1

1. The two States shall respect existing agreements relating to the composition of the JPSM and therefore in future meetings, each delegation shall be led by either one of the Ministers of Defence, Interior or Foreign Affairs

2. Both States adopted the agenda as prepared by the Joint Secretariat

Agenda Item 2

1. The JBVMM will be immediately established.

2. The AUHIP will request the two Presidents to allow the JPSM to receive a briefing on Abyei.

3. The issue of the map will be addressed by the AUHIP to the two Presidents.

Agenda Item 3

1. The JBVMM will address allegations and counter allegations related to the border area.

2. The JPSM agreed to address allegations and counter allegations in areas beyond the border through the Joint Secretariat to ad-hoc sub-committees.

Agenda Item 4

1. The JPSM discussed and agreed an MOU on Non-Aggression and Cooperation.

Agenda Item 5

1. The JPSM agreed that the MOU on Non-Aggression and Cooperation would come into immediate effect upon signature.

Agenda Item 6

1. JPSM agreed that the next meeting would be held on 8th March 2012 in Juba, cost met by the two States.

(*Signed*) 1st Lt. Gen. Mohamed Atta Elmula **Abass**
Director General for National Intelligence and Security Services
On behalf of the Republic of the Sudan

(*Signed*) Maj. Gen. Thomas Duoth **Guet**
Director General for General Intelligence Bureau
On behalf of the Republic of South Sudan

In the presence of:

(*Signed*) Thabo Mvuyelwa **Mbeki**
Chairperson, African Union High Level Implementation Panel
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